

Position on expiry of eight weeks of the option

It is submitted on behalf of the purchaser that on the expiry of the eight weeks from the date of the option, there was a concluded contract between the vendors and purchaser which the vendors were not entitled to abort unilaterally. It was maintained that such a contract can only be aborted if both parties mutually agree to put an end to the contract.

This submission is, in my judgment, erroneous. On its true construction, cl 13 renders the contract conditional upon the purchaser obtaining written in-principle planning approval for development of three units of two-storey bungalows within eight weeks from the date of the option, failing which the purchaser has the first option to abort the contract by giving seven days' notice and thereafter, the vendors shall have the discretion to abort the contract or to consent to the purchaser proceeding with the contract. In my judgment, cl 13 clearly confers a power of rescission on the vendors if the purchaser fails to give the requisite notice to call off the sale.

It is next submitted that the vendors could only abort the sale by giving reasonable notice. It was submitted that reasonable notice meant reasonable notice as provided in the Law Society's Conditions of Sale 1981 which had been made applicable to the sale and which meant 21 days' notice, and not a notice to abort forthwith.

This submission is, in my judgment, fallacious. It requires a reading into the last sentence of cl 13 the words 'reasonable notice' before the vendors can abort the sale, which words are notably absent. In any event, there is no relevant provision in the Law Society's Conditions of Sale 1981, which states 21 days' notice must be given to abort the sale. Clause 29(6) of the Law Society's Conditions, which provide for 21 days' notice, does not apply to the present situation as it deals only with the notice to complete when the sale has not been completed by the date fixed for completion. The contract here was aborted before the date fixed for completion.

The vendors' conduct

It is also submitted on the facts that the vendors' conduct was not bona fide and was in fact reckless in that the vendors knew at the date of granting of the option that their application for planning permission for three bungalows had been rejected earlier on February 1987 and thus knew that approval for planning permission was bound to be rejected. The vendors, for their part, maintained that they had informed the purchaser's representatives that 'in-principle approval' for only two bungalow houses had been obtained and wanted the sale to be on that basis, but it was the purchaser who

A had insisted on making the contract subject to in-principle approval for three bungalows which they said they, as developers, were confident of having a fair chance of obtaining. This resulted in what was in fact an extended option of eight weeks to await the outcome of the application for in-principle approval. In any event, even if there was any pre-contract misrepresentation, it does not, in my view, alter the fact that the contract has been aborted in accordance with the express terms of the contract. The purchaser's remedy, if such a situation exists, may lie in damages only.

B Accordingly, for these reasons, the originating summons is dismissed with costs.

C *Application dismissed.*

Solicitors: *Wee Swee Teow & Co; Lee & Lee.*

Reported by *Teoh Ai Lin*

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Re Wan Yijun & Anor

HIGH COURT (SINGAPORE) — ADOPTION PETITION
NOS 51 AND 52 of 1989
E WEE CHONG JIN CJ
25 SEPTEMBER 1990

Family Law — Adoption — Consent of natural mother to adoption originally given then revoked — Allegation that natural mother was unfit to look after children — Whether court can dispense with natural mother's consent — Welfare principle — Whether natural mother or petitioners were fit to have care and control of children — Adoption of Children Act (Cap 4, 1985 Ed), ss 4(4) proviso (a), (b), (c), 5(a) & (b)

Children and Young Persons — Adoption — Consent of natural mother to adoption originally given then revoked — Allegation that natural mother was unfit to look after children — Whether court can dispense with natural mother's consent — Welfare principle — Whether natural mother or petitioners were fit to have care and control of children — Adoption of Children Act (Cap 4, 1985 Ed), ss 4(4) proviso (a), (b), (c), 5(a) & (b)

The male petitioner, being the natural father of twin girls, and his wife applied for an adoption order in respect of the girls. The children were born to the respondent, the natural mother, out of a previous relationship with the male petitioner. Custody of the twins was originally vested in the natural mother, with the male petitioner paying for their maintenance. Later the natural mother agreed to let the male petitioner adopt the twins while she was to have access and the sum of \$200,000. A deed of severance of cohabitation and two consents to adoption were signed by the parties. The twins were handed over to the male petitioner and adoption papers filed. The natural mother then withdrew her consent for adoption, and regained custody of the twins upon commencing a separate action. When cane marks and bruises were found on the twins resulting in their hospitalization, the male petitioner applied for and was granted custody. As the adoption proceedings reached a stalemate without the natural mother's consent, the petitioners argued that the court had jurisdiction to dispense

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with her consent under the Adoption of Children Act (Cap 4, 1985 Ed) on the ground that she was a compulsive gambler, had attempted suicide, had a bad family background, and was herself involved in dubious employment as a dance hostess. The natural mother countered that both petitioners had physically abused the children and that the male petitioner had assaulted the female petitioner on previous occasions.

Held, dismissing the petitions:

(1) As to whether the natural mother's consent ought to be dispensed with, the relevant factual circumstances must be examined. It appeared that the original consents to adoption were signed as a result of the natural mother's serious financial plight when she felt that the children would be better off with their father. Were it not for this she would not have thought of parting with the twins. The gift of \$200,000 was not unconnected with the natural mother's signing of the two consents to the adoption.

(2) When the natural mother signed the deed and the consents, she was unrepresented. The documents themselves are conceptually contradictory. The deed granted her access to the twins but the consents would deprive her forever of seeing them once the adoption order was made. It is likely that she did not fully appreciate the significance and implications of both documents at the time she signed them, and only did so when her own solicitor explained the contents of the documents to her.

(3) As to the allegation that she was not a suitable person to look after the twins because of her family background, this is irrelevant and has nothing to do with her ability to be a good mother. With regard to her alleged abuse of the twins, it is important to note that there was no allegation of her abuse of the twins at all for the period beginning with their birth until these proceedings. If she was a child abuser there would have been numerous occasions which the male petitioner could enumerate. Instead he only alleged one incident and that was after these proceedings had begun. The evidence does not support the allegation that she was ever a child abuser.

(4) The natural mother's attempted suicide could have been due to depression and disappointment with the male petitioner. The allegation that she is a compulsive gambler and a dance hostess is not substantiated.

(5) The matter of fitness of the natural mother to have care and control and her ability to provide a home are more appropriately considered in relation to the welfare principle. The protection and welfare report and the psychiatric report contain no suggestion that the natural mother is unfit or unsuitable to look after the twins. Although the reports recommend that the twins should be adopted by the petitioners, the court did not agree as the relationship between the petitioners is not stable, the quarrels between the petitioners may be because of the twins, and the allegations by the natural mother of child abuse resulted in the deputy public prosecutor giving the male petitioner a warning on the allegations.

(6) It cannot be for the welfare of the twins to be brought up by the petitioners. Though their relationship has improved under supervision and counselling, these are not compelling enough to sever the natural ties between the natural mother and the twins. The only factor in their favour is the material advantage they can offer the twins. But this factor alone is insufficient to grant an adoption order. The natural mother alone has the choice of whether to bring up the twins with her own means or to allow the petitioners to do so.

A Cases referred to

- 1 *Hitchcock v WB* [1952] 2 All ER 119 (refd)
- 2 *Re F (An Infant)* [1957] 1 All ER 819 (refd)
- 3 *Mace v Murray* [1954-1955] 92 CLR 370 (folld)
- 4 *Re SS* [1975] 1 MLJ 56 (refd)
- 5 *Re A (An Infant)* [1963] 1 WLR 231 (refd)
- 6 *Re D (An Infant)* [1959] 1 QB 229 (refd)

B Legislation referred to

Adoption of Children Act (Cap 4, 1985 Ed) ss 4(4) proviso (a), (b), (c), 5(a), (b)

Richard Sam for the petitioners.

KS Chung for the respondent.

Ng Yuen for the Attorney General.

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Cur Adv Vult

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Wee Chong Jin CJ: In these adoption proceedings, the petitioners are applying for an adoption order in respect of a set of twin girls who were born on 1 December 1983. The twins are also the subject matter of Originating Summons 352/88 taken out by the natural mother. I dismissed both petitions and now give my reasons.

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From the affidavits and documents filed, the following facts are not in dispute. The male petitioner, Ban Ah Ping @ Wan Peng, met the natural mother (Lim Choong Hua) of the twins when they were working at China Pottery in 1981. In or around 1982 both parties cohabited with each other. This state of affairs continued until 1985. In March or April 1982, both parties had gone through some form of customary ceremony dinner. At this dinner both parties presented themselves as husband and wife. Of course, this ceremony did not create a valid marriage under the Women's Charter (Cap 353, 1985 Ed) even though the natural mother thought they were validly married. Apparently, the reason for the customary ceremony was because the male petitioner's divorce proceedings with his first wife were still pending. The relationship resulted in the birth of the twins.

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Sometime in November 1985, the natural mother was hospitalized. During this period two events took place. The first was that the male petitioner left her and the second was her discovery that he had married the female petitioner (Ban-Chen Pei Wen), a Taiwanese, on 30 November 1985.

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Both the male petitioner and the twins' natural mother then severed their relationship. The male petitioner gave custody of the twins to her. He also provided monthly maintenance of \$1,000 to \$1,500 for the twins. However, the regularity and the cessation of such payments are in dispute.

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Left alone, the natural mother decided to go into business. This proved to be unsuccessful and she found herself in partnership disputes and costly law suits.

Around January 1988, the male petitioner approached her regarding the custody of the twins. They discussed the matter. Though much of the details are in dispute, the following facts are clear:

- (a) On 20 January 1988, the male petitioner and natural mother executed two sets of documents, namely, a deed of severance of cohabitation and two consents for adoption of both girls.
- (b) The natural mother was to have access to the twins.
- (c) The male petitioner would pay the natural mother \$200,000.

The twins were handed over to the male petitioner on or about 21 January 1988 and adoption papers were filed on 24 February 1988 in the subordinate courts. However, there were mounting problems relating to the mother's access to the twins. She withdrew her consent for adoption through her solicitors on 14 March 1988. On 18 March 1988, the Attorney-General was appointed guardian ad litem for both twins. To overcome the custody problems she commenced an action under the Guardianship of Infants Act (Cap 122, 1985 Ed) by way of Originating Summons 352/88. Custody of the twins was returned to her on 20 May 1988.

The events did not stop there. On or about 31 July 1988 the male petitioner found cane marks and bruises on the twins which resulted in their hospitalization. On his application, custody was given back to him on 15 August 1988. The events that followed became acrimonious. Accusations and counter-accusations ensued which can be summarized as follows:

- (a) The male petitioner accused the natural mother as being unsuitable to bring up the twins. He cited grounds such as she was a compulsive gambler, that she had attempted suicide, her brother was a criminal, her father was a brothel keeper and that she herself was involved in dubious employment as a dance hostess.
- (b) The male petitioner claimed he and the female petitioner were suitable adoptive parents as they could provide a family and conducive environment for the twins.
- (c) The natural mother accused both petitioners as being unsuitable in that the twins had been physically abused on four occasions and that the male petitioner had assaulted the female petitioner on at least two occasions.

This was the scenario when both petitions came up for final hearing on 2 February 1990.

The law relating to adoption proceedings

It is useful first to consider the law relating to the issues in these proceedings.

Adoption proceedings, unlike other civil and matrimonial proceedings, are particularly complex when

A contested, not because of issues of law or facts but because they involve the emotions of many parties including the infant in question. Such proceedings have serious permanent consequences. Lord Goddard said this in *Hitchcock v WB*¹ at p 121:

B An adoption order, however, is an order of the most serious description as it removes the child once and for all from his natural parents and gives him to the adopted parents as though they were and always had been his natural parents.

A few years later, Harman J also pointed to the difficulty a court faces in such proceedings in *Re F (An Infant)*² at p 820:

C This is that comparative rarity, a contested application for adoption. It is one of the most anxious jurisdictions which falls on the Court of Chancery, for adoption, as has often been pointed out, is a permanent change in the status of the person adopted, and may alter his or her citizenship. It alters the family to which he or she belongs. It alters both the child's rights and the child's duties as a citizen of this country. It is, therefore, a matter which at the best, and even when unopposed must be looked at with great circumspection as so momentous a change is to be made in a child's life, the child having in ninety-nine cases out of a hundred no say in the matter, because he or she is too young.

E In Singapore, adoption proceedings are governed by the Adoption of Children Act (Cap 4, 1985 Ed) ('the Act'). Section 5 stipulates three matters which the court must be satisfied with before making an adoption order:

The Court before making an adoption order shall be satisfied:

- F (a) that every person whose consent is necessary under this Act and whose consent is not dispensed with has consented to and understands the nature and effect of the adoption order for which application is made, and, in particular in the case of any parent, understands that the effect of the adoption order will be permanently to deprive him or her of his or her parental rights;
- G (b) that the order if made will be for the welfare of the infant, due consideration being for this purpose given to the wishes of the infant, having regard to the age and understanding of the infant; and
- H (c) that the applicant has not received or agreed to receive, and that no person has made or given, or agreed to make or give to the applicant, any payment or other reward in consideration of the adoption except such as the court may sanction.

From the facts, only s 5(a) and (b) are relevant in these adoption proceedings.

Section 5(a) requires the relevant consent without which no adoption can be made unless this has been dispensed with under s 4(4) which reads:

I An adoption order shall not be made except with the consent of every person or body who is a parent or guardian of the infant in respect of whom the application is made or who has the actual custody of the infant or who is liable to contribute to the support of the infant:

Provided that the court may dispense with any consent required by this subsection if the court is satisfied that the person whose consent is to be dispensed with:

- (a) has abandoned, neglected, persistently ill-treated the infant or cannot be found and that reasonable notice of the application for an adoption order has been given to the parent or guardian where the parent or guardian can be found;
- (b) is unfit by reason of any physical or mental incapacity to have the care and control of the infant, that the unfitness is likely to continue indefinitely and that reasonable notice of the application for an adoption order has been given to the parent or guardian; or
- (c) *ought, in the opinion of the court and in all the circumstances of the case to be dispensed with*, notwithstanding that such person may have made suitable initial arrangements for the infant by placing the infant under the care of the authorities of a children's home, the protector under the Children and Young Persons' Act or some other person. (Emphasis added.)

This provision was derived from s 2(3) of the UK Adoption of Children Act 1926 ('the 1926 Act') which provided:

An adoption order shall not be made except with the consent of every person or body who is a parent or guardian of the infant in respect of whom the application is made or who has the actual custody of the infant or who is liable to contribute to the support of the infant:

Provided that the Court may dispense with any consent required by this subsection if satisfied that the person whose consent is to be dispensed with has abandoned or deserted the infant or cannot be found or is incapable of giving such consent or, being a person liable to contribute to the support of the infant, either has persistently neglected or refused to contribute to such support or is a person whose consent *ought, in the opinion of the court and in all the circumstances of the case, to be dispensed with*. (Emphasis added.)

Section 4(4) of the Act is substantially in pari materia with its English equivalent and more importantly, the words 'ought, in the opinion of the Court and in all the circumstances of the case, to be dispensed with . . .' in s 4(4) proviso (c) of the Act are identical with its English equivalent.

The English position was changed in 1950 by s 3(1) of the UK Adoption of Children Act 1950 ('the 1950 Act') which provided:

The court may dispense with any consent required by paragraph (a) of subsection (4) of section 2 of this Act if it is satisfied:

- (a) in the case of a parent or guardian of the infant, that he has abandoned, neglected or persistently ill-treated the infant;
- (b) in the case of a person liable by virtue of an order or agreement to contribute to the maintenance of the infant, that he has persistently neglected or refused so to contribute;
- (c) in any case, that the person whose consent is required cannot be found or is incapable of giving his consent or that his consent is *unreasonably withheld*. (Emphasis added.)

A Consequently, English cases relating to the 1926 Act, especially those on s 2(3), are of more persuasive authorities than those under the 1950 Act.

B Having seen the historical background of s 4(4) proviso (c) of the Act it is useful now to see the approach adopted by the courts in different jurisdictions in applying the equivalent of this proviso.

C In England, the approach adopted for s 2(3) proviso of the 1926 Act was the 'welfare' principle. In *Hitchcock v WB*,¹ Lord Devlin said, at p 123:

C That proviso gave an absolute discretion to the court and, in exercising their powers under a section so worded, the justices would, no doubt, be right in regarding the welfare of the child as the matter of paramount importance.

D In Australia, the only reported case, it seems, is that of *Mace v Murray*.³ That was a case which turned on s 167(e) of the Child Welfare Act 1939-1952 of New South Wales which empowers the court to dispense with the consent of a person 'where, having regard to the circumstances, the court deems it just and reasonable to do so'.

E Other Australian states have similar provisions though not similarly worded. For example, s 27(1)(e) of the Adoption of Children Act (1966-1980) of South Australia permits dispensation of a person's consent where it appears to the court 'that there are circumstances by reason of which the consent may properly be dispensed with'. Section 29 of the Adoption of Children Act of Victoria has a similar provision.

F The facts of *Mace v Murray*³ were these. The natural mother gave her consent for her illegitimate child to be adopted. Subsequently, she withdrew her consent. The issue before McLelland J was whether to dispense with her consent under s 167(e). Before deciding he enumerated five factors for consideration:

- G (a) the natural mother's initial consent;
- (b) her fitness to have the custody or control of the child;
- (c) her ability to provide a home and the opportunity she would have of providing a mother's attention care and training;
- H (d) the welfare of the child; and
- (e) whether the revocation of her consent was bona fide.

I McLelland J decided to dispense with her consent. The matters that influenced his decision seem to be that the natural mother had offered her child for adoption before birth, that she did not want to see the child after birth, that she was earning only £34 per week as a bus conductress and that a strong relationship between the child and the adoptive parents had developed from the time the child was delivered into their possession.

McLelland J's decision was reversed by the New South Wales Supreme Court but was restored by the High Court of Australia. The High Court of Australia was satisfied that McLelland J had exercised his discretion properly.

In Singapore, the case of *Re SS*⁴ is the only reported case on s 4(4) proviso (c) of the Act. The late Winslow J said at p 58:

It therefore behoves the court to exercise the discretion entrusted to it after a full and careful consideration of all circumstances of the case including the welfare of the child, though not necessarily the sole consideration, is one of prime importance.

Winslow J then assessed the fitness or otherwise of the natural father to have the child. The natural father had refused to give his consent to an adoption petition jointly presented by the natural mother and her husband. He found that the natural father was a drug addict, a rolling stone insofar as employment was concerned, an architect of a broken home and was never a steady provider for his child. He concluded at p 58, that the natural father was:

... completely unfit to continue in the role of a father of whom his child can ever be justifiably proud ... His withholding of his consent ... compels me to the discretion, painful as it is, that he has forfeited such rights. I accordingly decide that in all the circumstances of this case his consent should be dispensed with.

A plain reading of our s 4(4) provisos (a) and (b) shows that both (a) and (b) had something related to the misconduct of the person whose consent is to be dispensed. It is with this context in mind that one should interpret proviso 4(c). In my opinion, for the consent to be dispensed with, there must be some 'culpability' in the conduct, albeit not serious enough to fall within s 4(a) or (b), on the part of the person whose consent is to be dispensed with.

Next, s 5(b) of the Act requires the court to be satisfied that the adoption order if made will be for the infant's welfare. The word 'welfare' was given its legal meaning by Cross J in *Re A (An Infant)*.⁵ At p 234 his Lordship said:

The word 'welfare' might perhaps be thought to point rather to the physical or moral well being of the infant than to such a benefit as he will secure here if the order is made. But in the light of *Re D (An Infant)* ... I think that 'welfare' means simply 'benefit' ...

The 'benefit' Cross J referred to in the case before him was acquisition of British nationality by the child upon an adoption order being made.

In *Re D (An Infant)*⁶ Lord Denning, delivering the decision of the Court of Appeal, dealt with the question of the effect of an adoption order in a petition for adoption of an illegitimate child by its natural mother.

A The judge at first instance refused to make an adoption order because the objective of the natural mother's application was to avoid the stigma of illegitimacy. Lord Denning, in reversing this decision, held that adoption did not legitimize an illegitimate child but would certainly give an advantage to the child. He then went on to describe the advantage an adopted child would have in property succession.

Whether a particular matter is to the infant's benefit or advantage must, of course, be a question of fact and depend on the circumstances of each case.

Dispensation of the natural mother's consent

C I come now to the facts of the adoption petitions before me. The first issue to be addressed is whether the consent of the natural mother 'ought, in the opinion of the court and in all the circumstances of the case to be dispensed with ...' within the meaning of s 4(4) proviso (c) of Act.

D In applying the tests relating to the giving and revocation of consent as enumerated in *Mace v Murray*³ the relevant circumstances must be examined. From the voluminous documents filed one fact seems clear, that is, both consents were signed under less than happy circumstances for a number of reasons.

E First, it seems clear that the natural mother was in serious financial plight because of failing business, partnership disputes and costly litigations. Out of concern for her twins she felt they would be better off with their father. It seems to me this was a manifestation of natural love and affection brought about by financial constraints and that if not for such constraints she would not have thought of parting with the twins.

F Secondly, it is undisputed that the natural mother received \$200,000 from the male petitioner before she signed the two consents to the adoption of the twins. The circumstances as to the payment of this large sum of money by him to her are set out in his affidavit of 4 August 1989. The relevant paragraphs read:

- G 16 Sometime in December 1987 (after a lapse of almost 11 months) Lim again requested for a meeting. At this meeting Lim requested \$200,000 from me so that she could settle her gambling debts and also to start a small business.
- H 17 I agreed to give her the sum of \$200,000. Lim then agreed to allow my wife and I to adopt the said children. It was also agreed that Lim will have access to the children on weekends.
- I 18 It was under these circumstances that I took Lim to see Mr Lai Swee Fung of Messrs Toh Tan & Partners to execute the deed of severance and consent to adoption order.

In my opinion, the \$200,000 gift was not unconnected with the natural mother's signing of the two consents to the adoption of her twin daughters.

Thirdly, when the natural mother signed the deed of severance of cohabitation and the consents she was unrepresented. Her highest educational standard was secondary two in a Chinese School. Both documents were signed contemporaneously but are conceptually contradictory. The deed granted her access to the twins but the consents would deprive her forever of seeing them once the adoption order was made. I do not doubt that the petitioners' solicitor explained the contents to her. However, it is likely she did not fully appreciate the significance and implications of both documents. The facts show that she began to fear for the worst when access became a problem. She then fully grasped the significance and implications of the consents when her own solicitor explained the contents of both documents to her. Thereupon she withdrew her consent.

Finally, the petitioners alleged she was not a suitable person to look after the twins because of family and personal disabilities. Regarding the family matters there was the allegation that her father was a brothel keeper and her brother was a convicted criminal. She disputes the former and admits her brother is serving prison term for an offence of unlawful trafficking of drugs. In my view both allegations are irrelevant and have nothing to do with her ability and capacity to be a good mother.

The main alleged personal disabilities related to one incident of alleged abuse of one of the twins, Wan Yijun, in August 1988, that she had attempted suicide, that she was a compulsive gambler and that she is a dance hostess. She disputes abusing the twins but admits using the cane to discipline. The medical report dated 13 August 1988 stated Yijun's left thigh injury could be caused by a lighted cigarette. In my view this medical report is inconclusive. The more important fact to note, however, was that there was no allegation of her abuse of the twins at all for the period beginning with their birth until these proceedings. If she was a child abuser there would have been numerous other occasions which the male petitioner could enumerate. Instead he only alleged one incident and that was after these proceedings had begun. The evidence does not support the allegation that she was ever a child abuser.

She admitted attempting suicide but, in my opinion, this could have been due to depression and disappointment with the male petitioner. Then there is the allegation she is a compulsive gambler and a dance hostess. In my view this allegation is easy to make but not substantiated. It is subjective criticism made for the purpose of these proceedings. In any case she flatly denies it. Further she works as a public relations officer earning \$3,000 per month.

Having regard to all the circumstances I am of the opinion the consent of the natural mother should not be

A dispensed with. There is nothing in her conduct which questions her ability and capacity to be a good mother.

The welfare of the twins

B Though McLelland J in *Mace v Murray*³ considered the matter of fitness of the natural mother to have care and control and her ability to provide a home under the subject matter of dispensation of her consent, I am of the view such matters are appropriately discussed in relation to the welfare principle. In this respect the report of the protection and welfare officer and the psychiatric reports are relevant. These reports contain no suggestion that the natural mother is unfit or unsuitable to look after the twins, though the welfare report recommended a two-year interim order be made in favour of the petitioners.

D I have given careful consideration to these reports. In particular, I gave careful consideration to the recommendation that the twins should be adopted by the petitioners. I am unable to agree for several reasons. First, there is clear evidence that the relationship between the petitioners is not stable. The male petitioner has assaulted the female petitioner on several occasions, two of which were reported to the police of incidences on 21 January 1989 and 20 June 1989. In my view it cannot be to the welfare of the twins to grow up in an environment where there is a possibility they will see their parents constantly quarrelling and the adopted mother being assaulted. I am aware the twins were not at home when the two incidents took place. That is not the point. The point is that it would be detrimental to their growth and upbringing to be brought up in such an environment.

F Secondly, there is the more disturbing aspect in their relationship, not so much the frequency of their quarrels but that such quarrels may be because of the twins as was the incident of 20 June 1989. Thirdly, the natural mother made four specific allegations of child abuse against the twins by the female petitioner. Though these allegations may be inconclusive the fact remains the matter was investigated and referred to the Attorney-General's Chambers. The deputy public prosecutor decided not to take further action but gave the male petitioner a warning on all the allegations of child abuse. G This was disclosed in a letter from the police to the natural mother's solicitors dated 2 October 1989.

H In my judgment it cannot be for the welfare of the twins to be brought up by the petitioners. Though their relationship has improved under supervision and though the female petitioner is undergoing counselling I am of the view these are not compelling enough to sever the natural ties between the natural mother and the twins.

I The only factor in the petitioners' favour is the material advantage they can offer the twins. In my view

this factor alone is insufficient to grant an adoption order. It is for the natural mother to choose whether to bring up the twins with her own means or to allow the petitioners to do so. She has chosen the former. In my view she is entitled to do so.

The authorities, discussed earlier, are not only against dispensation of a natural mother's consent in the absence of good and compelling reasons but also cautioned against making an adoption order if it is not for the child's welfare or benefit.

In delivering their judgment, the High Court in *Mace v Murray*³ made a few relevant dicta which are noteworthy. At p 380 they said:

... powerful reasons must be shown before a court can properly deem it just and reasonable, notwithstanding a mother's objection, to sever the relationship between her child and herself and make the child for most purposes of the law, and consequently, for most practical purposes, the child of other persons.

Again at p 385 they said:

It must be conceded at once that in the ordinary case the mother's moral right to insist that her child shall remain her child is too deeply grounded in human feeling to be set aside by reason only of an opinion formed by other people that a change of relationship is likely to turn out for the greater benefit of the child.

For all these reasons and in the exercise of my discretion I did not dispense with the consent of the natural mother and therefore dismissed both petitions with costs to be borne by the petitioners.

Petitions dismissed.

Solicitors: *Gupta Sam & Wijaya; Chung & Co.*

Reported by *Azra Moiz*

Re Shangri-la Cruise Pte Ltd

HIGH COURT (SINGAPORE) — COMPANIES WINDING-UP
NO 57 OF 1990
YONG PUNG HOW J
13 SEPTEMBER 1990

Companies and Corporations — Winding up — Statutory demand served at registered address — Company had moved office but not lodged change of registered office — Whether demand effective — Companies Act (Cap 50, 1988 Ed), s 254(2)(a)

The petitioner sought an order, inter alia, that Shangri-la Cruise Pte Ltd ('the company') be wound up by the court. The petitioner had issued to the company a statutory demand under s 254(2)(a) of the Companies Act (Cap 50, 1988 Ed) and attempted to serve it at its registered address. This address was not occupied by the company but the petitioner left the demand there. The issue was whether the company should be wound up.

A Held, allowing the petition:

Until the notice of change of registered office was lodged with the Registrar of Companies, there was no doubt that the registered office of the company remained unchanged for the purposes of the Act although the company may in fact have moved its office to another address. The demand was accordingly valid and the company was ordered to be wound up.

B Cases referred to

- 1 *Ross v Invergordon Distillers Ltd* [1961] SLT 358 (refd)
- 2 *Peter Kurt (Development) Pty Ltd v Glenbar Homes Pte Ltd* (1977-78) 3 ACLR 698 (refd)
- 3 *Re Third Lojebu Pty Ltd* (1981-82) 6 ACLR 409 (refd)
- 4 *Quicksafe Freightlines Pty Ltd v Shell Co of Australia Ltd* (1985) 3 ACLC 237 (refd)
- 5 *Summit Co (M) Sdn Bhd v Nikko Products (M) Sdn Bhd* [1985] 1 MLJ 68 (refd)

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Legislation referred to

Companies Act (Cap 50, 1988 Ed) ss 4, 142(1), 143(1A), 254(2)(a), 257(2)

Ho Hock Lai for the petitioner.

Wong Sheng Kwai for the Official Receiver.

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Cur Adv Vult

Yong Pung How J: In this petition, Joy Win Development Ltd, a company incorporated in Hong Kong and having its registered office at Room 1211, New World

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Office Building, Kowloon, Hong Kong ('the petitioner'), has sought an order that Shangri-la Cruise Pte Ltd (formerly known as Shangri-la Holidays & Cruise Pte Ltd) ('the company') be wound up by the court under the provisions of the Companies Act (Cap 50, 1988 Ed) ('the Act'); that the Official Receiver may be appointed a liquidator; and that the costs of the petition be taxed and paid out of the assets of the company.

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On 13 February 1990 the petitioner's solicitors carried out the usual instant search at the Registry of Companies and Businesses for particulars of the company. This is the electronic instant information service by which the registrar provides direct to the offices of law firms brief particulars of companies in respect of which particulars are sought. The particulars of the company provided to the petitioner's solicitors indicated that the registered office of the company was at 1 Magazine Road #05-19, Central Building (off Have-lock Road), Singapore 0105. The particulars stated that this information was updated to seven days until 13 February 1990.

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In reliance on this information, the petitioner's solicitors issued to the company a statutory demand dated 13 February 1990 pursuant to s 254(2)(a) of the Act and attempted to serve this on the company by leaving it at its registered office at the Magazine Road address. When the solicitors' service clerk called at that address, however, the occupants of the premises refused to allow him to leave the notice there, stating that the company was no longer at that address. The next day,